

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

|                         |   |                           |
|-------------------------|---|---------------------------|
| RENATO CARTER, #1206655 | § |                           |
| VS.                     | § | CIVIL ACTION NO. 9:06cv99 |
| DIRECTOR, TDCJ-CID      | § |                           |

ORDER OF DISMISSAL

The above-entitled and numbered civil action was referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus should be denied and the case dismissed. Petitioner has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of Petitioner are without merit.

Petitioner is in custody of the Texas prison system pursuant to a Shelby County conviction, after a plea of guilty, for the offense of Burglary of a Habitation. He pled guilty soon after the criminal proceedings began and received deferred adjudication probation. After he violated the terms and conditions of probation and the probation was revoked, he began post-conviction challenges to his conviction complaining that his attorney was ineffective and that there was an unconstitutional search and seizure. The Report and Recommendation correctly explained that Petitioner's arguments in support of the petition are procedurally barred to the extent that they were not presented to the Texas Court of Criminal Appeals. Furthermore, Petitioner has not shown that he is entitled to relief based on ineffective assistance of counsel. Finally, he may not obtain relief on a Fourth Amendment search and seizure issue. *See Stone v. Powell*, 428 U.S. 465 (1976). The

objections lack merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the petition for a writ of habeas corpus is **DENIED** and the case is **DISMISSED** with prejudice.

It is further noted that the Court has received two letters from Petitioner. [Doc. #25 and #27] The points raised in the letter do not affect the analysis of the case, but do evidence a lack of understanding of the law and rules of procedure. Since Petitioner is pro-se, the Court will take a moment to address these points. The case was assigned, pursuant to local rules to the Honorable Judith K. Guthrie, United States Magistrate Judge. Judge Guthrie has filed a Report and Recommendation. No consent of the parties was necessary for this assignment or this procedure.

As to the dates documents were signed, contrary to Petitioner's letter, Doc. #20 was not signed before Doc. #19. Petitioner may have been confused about Doc. #22, which allowed the substitution of one Assistant Attorney General for another. As a matter of law, the Attorney General represents Defendant. Which Assistant is on the pleadings has no bearing on whether an extension of time was granted by Doc. #21.

To the extent that Petitioner's letters, [Doc. #25 and #27] is a motion to reassign this case, or an objection to the orders allowing substitution of counsel or an extension of time, it is **DENIED**. All motions not previously ruled on are **DENIED**.

So **ORDERED** and **SIGNED** this 3 day of **October, 2006**.



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Ron Clark, United States District Judge